

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**CHRISTINA MONTOYA,**

Plaintiff,

vs.

Civ. No. 07-1078 BB/ACT

**AMERICAN ONLINE, INC.,**

Defendant.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on Defendant AOL LLC's Motion to Compel Plaintiff to Supplement Her Rule 26(A)(1) Disclosures to include Damage Computations, filed November 6, 2008 [Doc. 32]. Plaintiff did not respond and Defendant filed a reply and notice of completion of briefing on December 9, 2008 [Docs. 42, 43].

In Plaintiff's Complaint for Violation of Title VII of the Civil Rights Act of 1964, and Other Relief filed October 26, 2007, she asks in her "Prayer for Relief" damages for "...lost retirement and lost wages and other benefits." Complaint at 11.

Federal Rule of Civil Procedure 26(a)(1)(A)(iii) requires the Plaintiff to produce "without awaiting a discovery request[:]"

a computation of each category of damages claimed by the disclosing party--who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered;...

Fed.R.Civ.P. 26(a)(1)(A)(iii).

The deadline to provide these mandatory disclosures was June 30, 2008. As of December 9, 2008, Plaintiff has failed to provide these required disclosures.

The Court will order the Plaintiff to produce a computation of damages within ten (10) days of entry of this Order. The Court also warns the Plaintiff that failure to comply with this or any Court order, the Federal Rules of Civil Procedure, and the Local Civil Rules of the United States District Court for the District of New Mexico in the future may result in a recommendation that sanctions be imposed which could include a dismissal of this lawsuit with prejudice. *Ehrenhaus v. Reynolds*, 965 F.2d 916 (10th Cir. 1992).

**IT IS SO ORDERED.**

  
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**ALAN C. TORGERSON**  
**UNITED STATES MAGISTRATE JUDGE**